



ECOMMERCE SITE

# Terms and Conditions

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## General Terms

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### 1. Your Acceptance

- 1.1 This e-commerce site (<https://www.timg.com/shop/>) [the **Site**] is owned and operated by or on behalf of TIMG Pty Ltd ABN 52 079 782 666 and its related entities (referred to as **TIMG, we, us or our**).
- 1.2 By using or accessing this Site you acknowledge that you have read, understood, and agree to be bound by these Terms and Conditions.
- 1.3 We host and operate the Site from servers located within Australia. These Terms and Conditions are governed by the laws of the State of New South Wales, Australia. You and TIMG agree to submit to the exclusive jurisdiction of the courts of New South Wales. If you choose to access this site from another location, you are responsible for compliance with applicable local laws.
- 1.4 We may revise or amend these Terms and Conditions at any time at our absolute discretion. Any revisions will be effective immediately. By continuing to use this site after any revision becomes effective, you agree to be bound by these Terms and Conditions as so revised. You should visit this page periodically to ensure that you understand the Terms and Conditions to which you are bound.

### 2. Orders

- 2.1 By placing an order through our Site, you are making an offer and commitment to purchase products in accordance with these Terms and Conditions [**Order**]. Your Order is subject to acceptance or rejection at our discretion.
- 2.2 After placing an Order, you will receive an email confirming the details of your Order and receipt of payment (where applicable). You may also receive further notification emails including:
  - a) Requests to verify your payment;
  - b) Notification that your Order has either been accepted or rejected;
  - c) Notification that your Order is ready for collection, or has been dispatched;
  - d) Any Communication from us regarding your Order;
- 2.3 Notwithstanding anything to the contrary, we may at any time following receipt of your Order accept, decline, or limit your Order for any reason whatsoever, whether or not your credit card has been charged or we have otherwise received payment from you. We will issue you with a refund if your credit card has been charged or we have received payment from you, and your Order is cancelled by us.
- 2.4 Where possible, we may at our discretion permit an Order to be cancelled by you. An Order cannot be cancelled by you once it has been dispatched, or you have accepted delivery of the Order.
- 2.5 We do not accept Orders originating from outside Australia.

### 3. Registered Account

- 3.1 You can place an Order by registering an account or as a guest; you may be required to register an account to access certain features of the Site [**Account**].
- 3.2 By registering an Account and/or placing an Order as a guest, you warrant to us that you are at least 18 years of age and possess the legal authority to enter into, and use the Site in accordance with, these Terms and Conditions.
- 3.3 You agree to ensure that your registration details are true and accurate at all times, and you undertake to update your registration details from time to time when they change.
- 3.4 When registering your Account, you will nominate a password of your choice [**Password**]. You agree that you will not disclose, or permit disclosure of, the Password to any person. You will be fully responsible for all acts and omissions of any person who enters into a transaction using your Password, as if they were your own acts and omissions. We will not in any event be liable for any loss, damage, claims, costs, or expenses arising out of the use or misuse of the Password, and you will indemnify us against all loss, damage, claims, costs or demands in this regard.
- 3.5 You may change the Password at any time using the facility provided on the Site. You must immediately notify us of any Password which is lost, inoperable or used in an unauthorised manner.
- 3.6 You agree to be financially responsible for all of your use of the Site (as well as for use of your Account by others, whether or not authorised by you).

### 4. Payments

- 4.1 We accept online payments for Orders using VISA and MasterCard cards (debit or credit), or bank transfer. We do not accept cash on delivery. If you have an account and we have agreed to extend credit terms to you, you will be able to place Orders on account and pay in accordance with these credit terms.
- 4.2 A card surcharge on the value of the Order applies to all card transactions [1.3% for credit cards; [1.8%] for debit cards]. The card holder must be either the billing or shipping recipient.
- 4.3 Card transactions may be subject to further payment verification processes that may result in a delay to your order.
- 4.4 If we are unable to successfully process your credit card payment, or you are unable to verify payment for your Order, then we may reject your Order, or cancel it if it had been previously accepted.
- 4.5 You must not pay, or attempt to pay, for Orders through any fraudulent or unlawful means.
- 4.6 We will provide you with a receipt at time of credit card payment (where applicable) which specifies the total fees and charges for the products and services in your Order.
- 4.7 All transactions are processed in Australian Dollars [\$AUD].
- 4.8 TIMG is responsible for all payments made via the Site. This responsibility includes refunds,

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chargebacks, cancellations, and dispute resolution in accordance with these Terms and Conditions.

### 5. Pricing and Availability

- 5.1 All Prices are in Australian Dollars and are inclusive of goods and services tax. We may modify prices and product and service offerings at our discretion for any reason at any time.
- 5.2 If there is an error on our Site including but not limited to a product listed at an incorrect price or with incorrect specifications, we maintain the right to accept, decline, or limit any Orders placed as per clause 2.3.
- 5.3 Any information we provide in relation to the availability of products is a guide only and is subject to change without notice. We will not be liable for any lack of availability of products that you may order through the Site.

### 6. Delivery

- 6.1 We may deliver your Order ourselves or utilise a number of third-party couriers to deliver your Order based on your location (**Couriers**). Shipping and delivery of Orders will be in accordance with the delivery terms of us or the Couriers (as applicable): [www.timg.com/timg-terms-and-conditions](http://www.timg.com/timg-terms-and-conditions). You are not able to collect Orders from our premises.
- 6.2 You must provide a physical delivery address where someone is likely to be available to accept the delivery of your Order during business hours. You may be required by the Couriers to provide proof of identification for verification checks, in accordance with their delivery terms.
- 6.3 Shipping costs are generally influenced by the weight of the products in your Order and your location. You can see the pricing on the available shipping options by entering your post code into the freight calculator. This calculator appears on the lower half of the screen when you add items to your cart. Shipping costs for any cabinets and compactus will be quoted separately for the relevant individual item.
- 6.4 We aim to dispatch all Orders, where products are in stock, within 1-3 business days. Custom products that are built-to-order may take up to 6 weeks to be assembled and dispatched. If for any reason we are unable to dispatch your Order, we will notify you within 2 business days. Shipping times are estimated at between 1-7 business days depending on your location within Australia but are subject to the delivery terms of us or the Couriers (as applicable).

### 7. Risk and Title

- 7.1 Title to the products in your Order passes to you upon delivery. All risk of loss or damage to the products in your Order passes to you when we despatch the products.
- 7.2 You accept all risk of loss or damage to the products in transit to or from our premises for the purposes of returning or exchanging a product.

### 8. Returns and Refunds

- 8.1 If you have changed your mind regarding an Order, you may return the product to us within 30 days of your receipt of the Order for an exchange or store credit, provided the following conditions are met:
  - a) The product has not been opened and seals intact (where applicable).
  - b) The product is not:
    - o a special-order product (Product is not "In stock at Supplier" status and is stocked by TIMG)
    - o Ex-demo products
    - o Open box products
    - o Clearance products
    - o Products with a "Price Markdown" label
    - o Products with a "No Return basis" label
    - o Products specially ordered for you (custom products)
    - o Product listed on the packing slip or invoice as "No Return"

**PLEASE NOTE:** TIMG may reject the return upon inspecting the condition of the products and will return the products to the customer at the customer's expense. Any items that, because of customer negligence, misuse or tempering are, damaged, or missing parts will not be accepted for return.

- 8.2 All "change of mind" returns:
  - o not meeting the above criteria will be at TIMG's discretion; and
  - o if accepted will attract a restocking fee of 20% of the price of the relevant product.

**PLEASE NOTE:** Shipping and payment fees are not refundable. Return postage fee is the responsibility of the buyer; alternatively, we can pick up products for return and will quote the applicable fees for pick up on enquiry. Furthermore, if a product is deemed "No Fault Found" for any warranty/consumer claim, a service fee of \$45 will apply.

- 8.3 To return a product you must:
  - a) Contact our Online Service Team and request a Return Material Authorisation (**RMA**) number. They will review your request and at their discretion, issue you an RMA number.
  - b) Send us the product safely and securely with the RMA number on the outside of the package. We will process your return claim in accordance with our warranty policy.
- 8.4 By issuing you with an RMA number, we are not representing that your warranty claim is valid or that you will be entitled to have your product repaired or replaced, or a refund provided in relation to that product.
- 8.5 In order to obtain a refund, exchange or to repair a product purchased from us, including those products which carry a manufacturer's warranty, you must have clear proof of purchase; typically, a receipt or invoice.

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### 9. Content

- 9.1 All intellectual property rights (including copyright and patents) in the information, comment, content, communication, advice, text, training materials, trademarks, logos, service names and trade names of TIMG, images of people or places or other content (Content) contained in the Site are owned or licensed by TIMG.
- 9.2 The Content on the Site is for general information purposes only. We do not warrant or make any representations as to any third-party products or services described or referred to on the Site. Any use of the Content by another person or organisation is at the user's own risk.
- 9.3 The Content on the Site is obtained and developed from a variety of sources including but not limited to collaborations with third parties and information provided by third parties under licence. Inclusion of Content on the Site is not an endorsement of any organisation, product, or service.
- 9.4 We may modify any information on the Site (including Content) at our discretion for any reason.

### 10. Prohibited uses

- 10.1 Unless expressly permitted by and in accordance with these Terms, you agree that in accessing and using the Site, you will not:
  - a) download (other than page caching) or modify the Site or any portion of the Site;
  - b) impersonate or falsely claim to represent a person or organisation;
  - c) frame the Site without our express written permission; or
  - d) post, link to, or otherwise communicate or distribute any inappropriate, profane, defamatory, infringing, obscene, indecent or unlawful material or information, or otherwise use the Site in a manner which is unlawful or would infringe the rights of another person including any intellectual property rights.

### 11. Hyperlinks

- 11.1 Our Site may contain hyperlinks to other Sites (Links). Links are provided for convenience only and we take no responsibility for the content and maintenance of or privacy compliance by any linked Site. Any Link on our Site to another Site does not imply our endorsement, support, or sponsorship of the operator of that Site nor of the information and/or products which they provide.

### 12. Security

- 12.1 Whilst we take reasonable precautions to protect information transmitted via the Site such as using Secure Socket Layer technology to ensure that your details are encrypted and securely communicated to us, we cannot and do not guarantee the security or confidentiality of these communications or the security of the Site.

- 12.2 We do not guarantee the delivery or security of communications over the internet as such communications rely on third party service providers, and electronic communication (including electronic mail) is vulnerable to interception by third parties.

### 13. Privacy

- 13.1 Any personal information submitted by you to us is subject to and will be handled in accordance with our Privacy Policy. The Privacy Policy forms part of these Terms and Conditions. It can be found [here](#).

### 14. Indemnity

- 14.1 You agree to indemnify and hold us harmless from all claims, actions, damages, costs, and expenses including legal fees arising from or in connection with any of the following:
  - a) any breach of these Terms and Conditions by you;
  - b) your use of the Site; or
  - c) your communications with us

### 15. Warranties and consumer guarantees

- 15.1 For the purposes of this clause 15:
  - a) **Standard Product** means any product sold on the Site, except for Custom Products;
  - b) **Custom Product** means a custom-built product that is assembled at your request under the custom system assembly service we obtain from relevant manufacturers (including custom files, folders, labels, computers, laptop or servers); and
  - c) **Products** means Standard Products and Custom Products.
- 15.2 Our goods come with guarantees that cannot be excluded under the Australian Consumer Law, Schedule 2 of the Competition and Consumer Act 2010 [Cth] [ACL]. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.
- 15.3 Nothing in these Terms and Conditions excludes, restricts, or modifies any consumer guarantee, right or remedy conferred on you by the ACL or any other applicable law that cannot be excluded, restricted or modified by agreement.
- 15.4 If you have returned a Product to us:
  - a) We will assess whether the Product has a fault and can be accepted as a warranty claim.
  - b) We may be required to consult with the manufacturer or their repair agent to determine the fault and resolution. If we have to send your product to the manufacturer or their repair agent, we will ask them to assess the product and provide their assessment within a reasonable timeframe.
  - c) Where the assessment finds that there is no fault with the product, or that the product has

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been damaged due to use of the product by you for a purpose for which it is not intended, outside its recommended parameters or specifications, or circumstances otherwise beyond our control, we may require, at our option, that you compensate us for any fees incurred by us in relation to the assessment.

- d) Once your product assessment is completed, we will inform you whether your warranty claim is accepted, and whether we will repair, replace, or refund your product.
- 15.5 Subject to clause 15.2, you acknowledge and agree that we are not the manufacturer or producer of any Standard Product or Custom Product, and the only warranties offered in respect of a Product are those of the manufacturer.
- 15.6 If you encounter an issue with a Product, we recommend that you contact the manufacturer's customer assistance department directly. Even if the manufacturer's warranty has expired, the manufacturer is obliged (and best placed) to assess the nature, cause and extent of a failure or fault if you believe your consumer guarantees have been breached.
- 15.7 If you encounter any issues with a Custom Product, you will need to comply with the normal returns' procedure in clause 8, for us to assess whether that Custom Product is faulty and can be accepted as a warranty claim.
- 15.8 If you return any Product capable of retaining user-generated data, then we hereby give you notice that the repair of those goods may result in the loss of the data. Your data is not covered by any warranty. You are entirely responsible for any data on your device and should maintain a regular backup of the data.
- 15.9 Software problems including but not limited to corrupted system files or issues caused by viruses, Trojan horses, malicious and/or third-party software are not covered by any warranty, implied or explicit.
- 15.10 Any representation, warranty, condition, guarantee or undertaking that would be implied in these Terms and Conditions by legislation, common law, equity, trade, custom or usage is excluded to the maximum extent permitted by law including the ACL, we do not make or will not be deemed to have made any:
  - a) warranty or representation, express or implied, as to:
    - i. the title, condition, design, operation, acceptable quality or fitness for purpose of any Product (or any part thereof);
    - ii. the absence of any latent or other defects;
    - iii. the absence of any infringement of any intellectual property rights (including copyright and patents);
    - iv. the absence of obligations based on strict liability in tort; or

- b) other representation, guarantee or warranty whatsoever, express or implied, with respect to any Product or any part thereof or services sold on the Site.

## 16. Limitation of liability

- 16.1 To the fullest extent permitted by law, our liability for a breach of a non-excludable guarantee referred to in clause 15.3 is limited, at our option, to:
  - a) in the case of goods supplied or offered by us, any one or more of the following:
    - i. the replacement of the goods or the supply of equivalent goods;
    - ii. the repair of the goods;
    - iii. the payment of the cost of replacing the goods or of acquiring equivalent goods; or
    - iv. the payment of the cost of having the goods repaired; or
  - b) in the case of services supplied or offered by us:
    - i. the supplying of the services again; or
    - ii. the payment of the cost of having the services supplied again.
- 16.2 We will not be liable to you for any indirect, incidental, special or consequential loss or damage, loss of profits or anticipated profits, economic loss, loss of business opportunity, loss of data, loss of reputation or loss of revenue (irrespective of whether the loss or damage is caused by or relates to breach of contract, tort (including negligence), statute or otherwise) arising in connection with, the Site, the Content, all links to or from the Site, the goods and services advertised or purchased from us or any interaction you have with us.
- 16.3 Our maximum aggregate liability for all proven losses, damages and claims arising out of or in connection with these Terms and Conditions or a supply under these Terms and Conditions, including liability for breach, in negligence or in tort or for any other common law or statutory action, is limited to the sum of \$100.

## 17. Termination of access

- 17.1 We may at any time immediately terminate your access (including restricting access) to the Site or any feature of the Site for any reason (including due to your breach or alleged breach of these Terms and Conditions) in its sole discretion and without prior notice. Any indemnities given by you and any limitations of our liability survive such termination.

## 18. Severability

- 18.1 Each provision of these Terms and Conditions is severable from the others and no severance of a provision will affect any other provision.